DELAWARE SUPREME COURT INTERNAL OPERATING PROCEDURES

August 1, 1994

I. Court Administration.II. Caseload management.

III. Communications with and by the Court.

IV. Briefs and preparation.

V. Oral argument.

VI. Panel hearings.

VII. En Banc hearings.

VIII. Opinion of Justices.

IX. Decisional conference procedure.

X. Opinions.

XI. Judgment orders.

XII. Remand orders

XIII. Reargument by panel.

XIV. Rehearing en Banc.

XV. Motion practice.

XVI. Recusal or disqualification of Justices.

XVII. Visiting jurists.

XVIII. Law clerks.

XIX. Death penalty cases.

XX. Filing of papers.

Index follows Rules.

I. Court Administration.

- (1) Supervisory powers. The Chief Justice is "administrative head of all the Courts of the State" with "general administrative and supervisory powers over all the Courts." Del. Const. art. IV, § 13. Approval by a majority of the Justices of the Supreme Court is required for the adoption of rules for the administration of justice and the conduct of the business of all the courts of the State, *e.g.*, Administrative Directives. *Id*.
- (2) Administrative meetings. (a) Monthly. The Justices of the Supreme Court meet each month to discuss administrative matters.
- (b) Agenda. The Chief Justice distributes a proposed agenda. When a Justice wants to have an item placed on the administrative agenda, the Justice notifies the Chief Justice and sends a copy of the item to each Justice. When preparing the agenda, the Chief Justice (or the Chief Justice's secretary) assigns a sequential number to each item. The number includes the year in which it is first put on the agenda, and that number is retained until the matter is concluded.
- (c) Preparation. A separate file is created by each Justice's secretary for each item. Those files are usually brought to the administrative meeting.
 - (d) Minutes. The junior Justice keeps minutes of the administrative meetings.
- (3) *Liaison Justices*. The Chief Justice appoints Justices to many administrative committees and designates Justices to act as liaisons between the Supreme Court and other courts and boards established by the Supreme Court including:
 - (a) All trial courts
 - (b) Board of Bar Examiners
 - (c) Board on Professional Responsibility
 - (d) Board on the Unauthorized Practice of Law
 - (e) Committee on Interest on Lawyer Trust Accounts
 - (f) Committee on Publication of Opinions
 - (g) Committee on Litigation Ethical Problems
 - (h) Mandatory Continuing Legal Education Commission
 - (i) Permanent Advisory Committee on Rules
 - (j) Trustees of the Lawyers' Fund for Client Protection
 - (k) Delaware Courts' Planning Committee
- (4) Administrator of the Supreme Court. Deleted October 22, 1999, effective October 15, 1999.

- (5) *Clerk's office*. (a) Routing of documents. The Clerk's office circulates documents to the Justices with a green routing slip which indicates the action to be taken by the Justice.
- (b) Action requiring judicial approval. External written communications by the Clerk's office generally require the prior approval of a Justice. Exceptions to that general rule are included in the Motion Practice section.
- (6) Staff Attorneys. The Staff Attorneys assist the Court in discharging its constitutional responsibilities as the Court designates orally or in writing from time to time, including the following:
 - (a) Preliminary review of the jurisdictional basis for all appeals.
 - (b) Review of all filings for compliance with Court rules.
 - (c) Coordinate requests for extensions of time by parties or court reporters.
- (d) Review of all *pro se* filings and circulation of filings to the Justices with a written cover memorandum.
- (e) Assisting the Clerk of the Court in the scheduling of cases and the securing of supplemental filings.
 - (f) Undertake independent research as requested.
 - (g) Assist the motion Justice each month as requested.
 - (h) Perform such other legal duties as assigned.
- (7) Administrative Office of the Courts (AOC). (a) Function. This separate office is concerned with appropriations, budgets, accounting, information systems, technical assistance, training, records management, facilities, statistics, reports and personnel of all courts in Delaware. Supr. Ct. R. 87.
- (b) State Court Administrator. The State Court Administrator works under the direction of the Chief Justice. (Amended Apr. 6, 1999; Oct. 22, 1999, effective Oct.15, 1999.)

II. Caseload management.

- (1) *Judicial assignments*. The Chief Justice maintains a confidential list of the current case load of each Justice. This list shows the pending cases which have been decided and assigned to each Justice for preparation of opinions or orders. The list is circulated among the Justices each week by the Chief Justice. The list is taken into consideration in determining the allocation of additional assignments.
- (2) *Dispositions*. Pursuant to an Administrative Directive, each Justice is obligated to decide all assigned matters within 90 days of submission. If any matter is pending beyond 90 days before a Justice, that Justice must file a report with the Chief Justice by the 10th day of the succeeding month with an explanation. A matter is not deemed to be submitted until all briefing or supplemental briefing and oral argument (if any) has been completed.
- (3) *Docket control*. Approximately twice a month, the Clerk sends lists to all of the Justices of:
 - (a) All pending motions;
 - (b) Cases which have been presented orally or submitted on briefs and are awaiting decision;
- (c) Cases at issue but not yet scheduled for oral arguments or assigned to a panel for decision on the briefs:
 - (d) Cases which are stayed; and
 - (e) Cases that were remanded with jurisdiction retained.
- (4) Monthly decisional conference. A pending list of cases decided but awaiting final opinion or order and a list of cases not yet decided is prepared by the Secretary to the Chief Justice and

distributed a few days prior to the monthly Administrative meeting. The list includes the case name and number, panel members, and the date submitted for decision. The Justices confer and try to reach tentative decisions on all unresolved matters each month.

III. Communications with and by the Court.

- (1) *External*. Contacts outside the courtroom between the Court and attorneys, or the public, involving matters pending before the Court, are conducted either through the Clerk's office or with the Chief Staff Attorney. The Clerk and the Chief Staff Attorney are in frequent communication with the Chief Justice, the motion Justice, and the other Justices. When the Clerk and the Chief Staff Attorney speak for the Court on procedural and scheduling matters, they are not authorized to waive the requirements of any statute or rule.
- (2) *Internal*. Since the Supreme Court is a collegial court, the Justices confer with each other simultaneously, either in writing (often fax) with copies to all Justices, by joint telephone conference, or collectively in person.
- (3) Absence from chambers. The Chief Justice maintains a master calendar. Each Justice advises the Chief Justice of any contemplated absence from the office in advance whenever possible. In addition, whenever a Justice contemplates being absent from chambers for more than 24 hours, a written memorandum is sent to all Justices a few days ahead of time with the name, address, telephone number, and fax number where the Justice can be reached. A copy of that memorandum should also be sent to the Chief Staff Attorney and the Clerk. (Amended Oct. 22, 1999, effective Oct.15, 1999.)

IV. Briefs and preparation.

- (1) Distribution. Briefs and appendices are distributed by the Clerk's office sufficiently in advance of a scheduled submission or argument date to afford several weeks of study in chambers prior to the panel sitting or convening. In special circumstances, such as expedited cases, the panel may agree to a shorter reading period. Two sets of briefs and appendices are furnished to each chambers. At the termination of the case, each chamber's copies of briefs and appendices are destroyed unless a Justice otherwise directs.
- (2) No discussion prior to scheduled sitting. Each Justice independently reviews briefs and appendices prior to an oral argument day or decisional conference unless specifically agreed otherwise in a given case. Neither the Justices nor their law clerks discuss the merits of a matter between chambers prior to oral argument or the decisional conference for cases submitted on briefs.

V. Oral argument.

- (1) *Selection of cases*. (a) Generally When the Chief Justice has approved the oral argument list, it is circulated by the Clerk to all of the Justices. The list is updated periodically throughout the month and redistributed as needed.
- (i) Clerk. After the answering brief in an appeal or reply brief/answering brief on cross-appeal has been filed, the Clerk preliminarily decides in which case oral argument would be helpful. The Clerk then prepares a draft oral argument list and schedule of decisions to be made on the briefs.
- (ii) Chief Justice. Under Supreme Court Rule 16(a), the Chief Justice supervises the preparation of the oral argument schedule after the briefing has been completed to ascertain those cases in which oral argument should be scheduled. The Chief Justice reviews the draft list to ascertain that there is an appropriate and equitable distribution of cases between all panel

combinations and Justices.

- (b) Counsel requests. Consideration is given to written requests by counsel for oral argument, but such requests are not binding on the Court.
- (c) Justice requests. Upon the request of any Justice, a case not already recommended for oral argument may be added to the oral argument list.
- (2) Length in panel cases. All panel cases are 20 minutes a side. A request for oral argument beyond 20 minutes a side is determined by a majority of the panel. Supr. Ct. R. 16(f). There is oral argument if it is requested by one Justice.
- (3) Length in cases en Banc. All en Banc and death penalty cases are 30 minutes a side. A request for oral argument beyond 30 minutes a side is determined by a majority of the en Banc court. Supr. Ct. R. 16(f). There is oral argument in an en Banc case if it is requested by at least one Justice.
- (4) Suggested criteria for oral argument. (a) Argument unnecessary. Justices usually will dispense with oral argument when:
 - (i) The issue is not novel and the briefs adequately cover the arguments; or
- (ii) The outcome of the appeal is clearly controlled by a decision of the United States Supreme Court or this Court; or
- (iii) The factual state of the record will determine the outcome and the sole issue is either sufficiency of the evidence, the adequacy of jury instructions, or discretionary rulings, and the briefs adequately refer to the record.
 - (b) Argument desirable. Justices usually request oral argument when:
 - (i) The appeal presents a substantial or novel legal issue;
- (ii) The resolution of an issue presented by the appeal will be of institutional or precedential value:
 - (iii) A Justice has questions to ask counsel to clarify a legal, factual or procedural point;
- (iv) A decision, legislative act, or another event subsequent to the filing of the last brief, may significantly bear on the case; or
 - (v) An important public policy issue is implicated.

The foregoing criteria are illustrations and not limitations on any Justice's discretion in voting for oral argument.

- (5) *Notice to counsel*. The Clerk communicates to counsel in each case whether the case is to be orally argued or submitted on briefs. The composition of the panel is not disclosed to counsel prior to oral argument. If the case is submitted for consideration on the briefs, counsel are notified in writing of the submission date but *not* the panel composition. The panel composition is available, however, upon request after the submission date.
- (6) *Scheduling*. The scheduling of arguments is usually done by the Clerk and the Chief Staff Attorney under the direct supervision of the Chief Justice. Except when specially scheduled for Wilmington, arguments are held in Dover. Arguments are usually on Tuesdays, with the first argument ordinarily being scheduled for 10:00 a.m. If Monday is a State holiday, arguments are scheduled for Wednesday of that week rather than Tuesday.
- (7) *Notice*. Notice of scheduled arguments is sent by the Clerk at least two weeks in advance, with a form: (1) requiring the attorney to either acknowledge the scheduling and the lawyer's availability or to apply for rescheduling; and (b) giving the attorney a chance to give notice of a proposed motion for admission *pro hac vice*. The form must be returned to the Clerk within five (5) days.
 - (8) Record of argument. (a) Tape recording. The Clerk makes a tape recording of each oral

argument for the use of the Court. There is no rule that requires the Court to make any official recording of an oral argument on tape or in writing. These tapes are kept by the Clerk until ninety days after the final mandate in the case has been issued and are erased.

- (b) Court reporter. The Supreme Court has no court reporter and the Court does not provide for a court reporter to be present during oral argument. If a party desires that a court reporter make a stenographic record of oral argument, the attorney should contact the Clerk's office in order to make arrangements for an official court reporter from another Delaware court or another qualified reporter to be present and to be paid by the party making the request.
- (c) Transcript. The parties may arrange with the Clerk to obtain a transcription of the tape, provided that:
 - (i) The transcription must be made at the expense of the party seeking it.
 - (ii) The original must be filed in the office of the Clerk.
- (iii) An official court reporter from a Delaware court or another qualified court reporter must be employed to transcribe the oral argument from the tape.
- (iv) The Clerk or Chief Staff Attorney must be present during the transcribing. (Amended Oct. 22, 1999, effective Oct.15, 1999.)

VI. Panel hearings.

- (1) *Panels*. Rule 4(c) provides (with two noted exceptions) that all cases shall be assigned for disposition by the Chief Justice to panels of three Justices and shall be heard as they come to issue, unless otherwise ordered by the Court. The case is "at issue" when either the appellee's answering brief on appeal or the appellant's reply brief/answering brief on cross-appeal are filed.
- (2) Composition of panel. Normally the composition of a panel is random or the result of motion justice assignments or disqualifications. Unless there are three or more disqualifications or a vacancy or vacancies or unavailability of justices, each panel includes only active Justices of this Court. A rotating schedule automatically designates panels of three Justices to hear each case when there is not to be a hearing before the Court en Banc, taking into consideration any notices of disqualification which may have been filed. The Court also seeks an even distribution of the judicial caseload between all panels and Justices. Panels are not composed with a view to the matter in dispute. Assignments are also made with a view to not developing specialists among the Justices.
- (3) *Identity of panel*. The composition of a panel for a given case is not announced in advance of oral argument. When cases are considered on the briefs without oral argument, counsel are informed that such submission on briefs has taken place. The names of the panel members are not disclosed unless requested by counsel for any party after a submission on briefs. The Clerk's office does add the panel's identity to the docket sheet after the date of submission on briefs.
- (4) *Presiding Justice*. The Chief Justice is the presiding Justice. In the absence of the Chief Justice, the presiding Justice is that Justice of this Court in active service next in seniority.
- (5) Seating in Court. The panel assembles in the robing room prior to the opening of Court. The next ranking Justice sits to the right of the presiding Justice facing the courtroom from the bench. Seating of the Justices continues from left to right in order of precedence based on the seniority of their commissions, followed by visiting active or retired jurists.
- (6) Conflict of precedent. The holding of the Court en Banc or a panel in an opinion or order is binding on the entire court and on subsequent panels. Thus, no subsequent panel can overrule the holding of a previous panel or the Court en Banc. Court en Banc consideration is required in

order to do so.

VII. En Banc hearings.

Initial *en Banc* hearing is extraordinary in non-capital cases. It is ordered only when a majority of the active Justices determines that the case is controlled by a prior decision of the Court which should be reconsidered or the case is of such immediate importance that exigent circumstances require initial consideration by the full court. *En Banc* hearings or rehearings before all five Justices may be ordered in the following circumstances:

- (1) Panel disagreement. If, during the circulation of draft opinions, a panel cannot unanimously agree, the presiding Justice notifies the Chief Justice, who enters an order for rehearing *en Banc*. Supr. Ct. R. 4(d);
- (2) Prior precedent conflicts. There is a reasonable likelihood that a prior decision of the Court may be modified or overruled. Supr. Ct. R. 4(d) and (f);
- (3) Vote of two Justices. On the affirmative vote of two or more Justices for the reasons listed in Supreme Court Rule 4(f);
- (4) Death penalty. All capital cases are heard *en Banc ab initio*. Del. Const. art. IV, § 12; Supr. Ct. R. 4(a).
- (5) Court rule or statute. In such other civil or criminal cases as the Court by rule or the General Assembly by two-thirds vote shall determine. Del. Const. art. IV, § 12.
- (6) Briefing. When there has previously been an argument before a three-Justice panel and the Justices order an *en Banc* rehearing *sua sponte* or on motion, the matter is usually decided upon the basis of briefs already filed. On rare occasions additional briefing or oral argument is requested.
 - (7) Priority. The rehearing en Banc is expedited on a priority basis. Supr. Ct. R. 4(d).

VIII. Opinion of Justices.

- (1) *Hearing*. By custom, the Chief Justice has convened the Justices to sit *en Banc* when the "opinion of the Justices" is sought by the Governor or the General Assembly under 10 Del. C. § 141. *See* Supr. Ct. R. 44.
- (2) *Counsel*. The Court appoints *pro bono* counsel to brief and argue each side of the questions presented to the Justices.
- (3) *Opinion format.* Although each Justice is being asked for each Justice's "opinion," the Justices have frequently joined in signing one opinion.

IX. Decisional conference procedure.

- (1) *Post-argument*. In cases where oral argument is held, the first time Supreme Court Justices exchange opinions concerning the merits of a case is ordinarily at a post-argument conference held immediately after, or closely following, the oral argument. The Justice who presided at the argument initiates the discussion. That senior Justice invites comments on the case and a tentative vote by each of the other Justices. The Justices ordinarily comment and cast tentative votes in reverse order of seniority.
- (2) Submission on briefs. (a) Weekly conference. A corresponding decisional conference is held in cases taken on the briefs, generally on the same day those cases are submitted. Such conferences take place in Dover following the hearing of oral arguments in other cases that day. However, if a Justice is not designated to sit on any oral arguments, that Justice does *not* travel to Dover for a discussion of cases submitted on briefs.

- (b) Exceptions to weekly conference. If a decisional conference is not held in person or by telephone the day a case is submitted on the briefs, the junior Justice of the panel circulates the Justice's view to the other panel members in writing. The other panel members respond in writing or at a telephone conference or in person.
- (3) Assignment of disposition. If the Justices are in agreement, the panel next decides how the decision of the Court should be announced: i.e., signed opinion, per curiam opinion, or order. The presiding Justice then assigns the case to a member of the panel for preparation of a proposed order or opinion. If there is a dissent or potential dissent, the Chief Justice is notified by the presiding Justice, the case is put down for rehearing *en Banc*, and no assignment is made.
- (4) *Memorandum of decision*. The Justice assigned to write the opinion or order may memorialize the decision of the panel by a memorandum. The memorandum of decision is a skeleton outline of the Court's decision on a point-by-point basis. All Justices, including non-panel members, receive a copy of such memoranda of decision.
- (5) *Tentative views*. Any of the Justices, including the Justice assigned to write the order or the opinion, may change his or her mind while the opinion or order is being prepared or after a draft is circulated. Continuing written or oral communications among the panel about the opinion or order while it is being drafted are common. If at any time prior to the release of the opinion or order, the unanimity of the three-Justice panel ceases to exist or it becomes apparent that a prior precedent may be modified or overruled, an *en Banc* rehearing is ordered.
- (6) Issuance of decision. (a) Notifying counsel. The opinions and orders containing final decisions issued under Supreme Court Rule 17 are circulated by telephone notification to the Delaware attorneys of record that the opinion or order may be picked up at the judicial chambers. Opinions and orders not picked up on the day of release are mailed out. When a decision involves attorneys from different counties, or is issued from a county other than that where the attorneys' offices are located, arrangements for receipt are made internally by the writing Justice's secretary. Telephone notification can be made by the Clerk's office, the Chief Staff Attorney, or a Justice's secretary.
- (b) Notifying trial court. The named author of the decision mails a copy of the decision to the trial judge.
- (c) Notifying public. The named author of the decision sends a copy of the decision to the Chief Staff Attorney, who distributes it to the media and public subscribers. A reasonable effort is made to distribute the opinions and orders to the attorneys in the case before they are distributed to the public or media by the Chief Staff Attorney.
- (7) *Issuance of mandate*. (a) Generally. Unless otherwise ordered by the Court, or unless a motion for reargument or a motion for rehearing *en Banc* is filed, a mandate shall issue as a matter of course upon the expiration of the 15-day period allowed for filing such motions.
- (b) Immediately. The Court sitting as a panel or *en Banc* routinely issues the mandate "forthwith," immediately following the announcement of an oral decision in an expedited proceeding. *See, e.g., Paramount Communications, Inc. v. Time, Inc.*, Del. Supr., 571 A.2d 1140 (1990); *Mills Acquisition Co. v. Macmillan, Inc.*, 559 A.2d 1261, 1265 n.2 (1988).
- (c) Expedited. The Court has the authority to reduce the time in which the mandate will issue for reasons such as the retirement of a Justice. (Amended Oct. 22, 1999, effective Oct.15, 1999.)

X. Opinions.

(1) *Form of opinions*. (a) Identified author. The primary writer is identified on the first page of the opinion. Unlike the federal practice, opinions are not literally "signed."

- (b) Per curiam opinions. A *per curiam* opinion may be used for affirming, reversing or remanding, or dismissing an appeal. *Per curiam* opinions are generally used, when appropriate, when the Court wishes to speak as one voice, especially in disciplinary matters.
- (c) Special contents. Each written opinion of the Court shall bear two dates immediately under the caption of the case:
 - (i) The date of submission of the matter for decision; and
 - (ii) The date the opinion is filed.
- (iii) Each written opinion of the Court, in a matter which was orally argued, shall identify by name the attorneys who presented the oral argument by a parenthetical to that effect after their names.
- (2) Circulation of opinions for approval. (a) Review of draft is given priority. After the draft opinion or order has been prepared, the Justice who was the named author circulates it to the other members of the panel only, with a request for approval or suggestions they may desire to make with respect to the draft opinion. Answering this request is given the highest priority by the other Justices, who shall communicate in writing their approval, disapproval, or suggestions within a few days of receipt of the draft opinion or order.
- (b) Suggestions for modification. Because it is the decision of the Court, other members of the panel are free to make any suggestions relating to the modification of, addition to, or subtraction from the proposed text. Where a textual revision or addition is suggested, the suggesting Justice submits modifications in specific language capable of being inserted into the opinion or order. When the other Justices approve the suggestions, the draft becomes the opinion or order of the Court.
- (3) 90-day period and draft decision-writing The Justice who will be the named author is expected to transmit to the panel a draft opinion or order sufficiently in advance to permit the final opinion or order to issue within ninety (90) days after submission or after close of any supplemental briefing or other factors suspending the drafting process.
- (4) *Procedure for approval*. The Justice assigned to prepare the opinion furnishes each member of the panel with a copy of the proposed opinion. The panel members indicate their approval, disapproval or comments in writing, usually on a form attached to the draft opinion.
- (5) Concurring opinions. If, after a second panel member approves the draft opinion or order, the third panel member desires separately to concur, the Justice not joining in the opinion or order notifies the writing Justice promptly and transmits those separate views to the panel. Panel opinions are not considered to be completed until each member has an opportunity to reconsider his or her views in response to those of other panel members.
- (6) Filing of opinions and orders. Opinions and orders of the panel which unanimously affirm or reverse the trial court or dismiss the appeal are filed forthwith with the Clerk by the Justice who is the named author. Only then are such decisions of the panel distributed in duplicate to all active Justices of the Court by the writing Justice.
- (7) *Publication of opinions and orders*. The Chief Staff Attorney promptly forwards to any publisher designated by the Court all opinions designated for publication. Case dispositive orders are also distributed by the Chief Staff Attorney for inclusion in the Westlaw, Lexis, and Digilaw systems.
- (8) Citation to orders. Supreme Court Rule 17 has been amended to permit orders of the Delaware Supreme Court to be cited as precedent. See New Castle County v. Goodman, Del. Supr., 461 A.2d 1012, 1013 (1983) (citing rule change). Even though both published opinions and case dispositive judgment orders have precedential value, the Court avoids citing to its

orders as authority. Whenever an order is cited in an opinion or order, however, a copy is attached to that disposition. Orders should not be attached to an opinion unless unavoidable. (Amended Oct. 22, 1999, effective Oct.15, 1999.)

XI. Judgment orders.

- (1) Panel unanimity. A case may be terminated in this Court by a judgment order upon the unanimous decision of the panel.
- (2) Criteria for disposition by order. Supreme Court Rule 17 provides that all decisions finally determining or terminating a case shall be made by written opinion, except that a case may be finally determined or terminated by written order if:
 - (a) The issue on appeal is controlled by settled Delaware law;
- (b) The issue on appeal is factual and there is sufficient evidence to support the jury verdict or findings of fact below; or
 - (c) The issue on appeal is one of judicial discretion and there was no abuse of discretion.
- (3) Form of order. (a) A judgment order affirming the court below usually includes a brief statement of the facts, those issues raised by appellant, and the reasons for the panel's decision.
- (b) Alternatively, a judgment order may state that the case is affirmed by reference to the opinion of the court below or the decision of the administrative agency and may contain one or more references to cases or other authorities.
- (c) Each written order of the Court shall bear two dates immediately under the caption of the case:
 - (i) The date of submission of the matter for decision: and
 - (ii) The date the order is issued.
- (4) *Procedure for approval*. The procedure for approving orders by written acknowledgement is the same procedure which is used to approve opinions.

XII. Remand orders.

- (1) *Retention of jurisdiction*. When a panel deems that it is appropriate to remand the case to the court below without disposing of the appeal, it may retain jurisdiction. Supr. Ct. R. 19(c).
- (2) Assignment following remand. When a report is filed in a case which has been remanded with jurisdiction retained, the Clerk will assign the appeal to the same panel unless directed otherwise by the Chief Justice.
- (3) Reversal and remand. In those instances when a panel reverses and remands a case, jurisdiction is generally not retained, and a mandate issues for further proceedings in accordance with this Court's decision.

XIII. Reargument by panel.

- (1) Distinguished from rehearing en Banc. A motion for rehearing before the Court en Banc is to be distinguished from a motion for reargument by a panel. The former is a request for de novo consideration, whereas the latter seeks reconsideration by the same panel which has already made a ruling.
- (2) *No answer or reply*. No answer to the motion shall be permitted unless requested by the Court. *Carolina Cas. Ins. Co. v. Mergenthaler*, Del. Supr., 372 A.2d 174, 175 (1977); *Ingersoll v. Rollins Broadcasting of Delaware*, 269 A.2d 217 (1970). *See Lynch V. Viekers Energy Corp.*, Del. Supr., 383 A.2d 278, 282 (1978).
 - (3) Request for answer. If any member of the panel timely notifies the other members of the

panel that an answer is desired, the named author of the original decision instructs the Clerk to direct that an answer be filed and the time period for its filing. The Clerk forwards the answer to the panel members.

- (4) No oral argument. A motion for reargument is not subject to oral argument.
- (5) *Internal process of motion*. (a) Consideration. If a motion for reargument before the panel is filed simultaneously with a motion for a rehearing *en Banc*, the motion for reargument is completely processed first.
 - (b) Circulation. The motion is circulated to the entire panel by the Clerk's office.
- (c) Lead Justice. The lead Justice (named author of the opinion or order) circulates a memorandum setting forth the author's position to the other two panel members only. The other panel members respond in writing to the suggested disposition.
- (6) Disposition. Two members of a panel must vote in favor of reargument for it to be granted.

XIV. Rehearing en Banc.

- (1) Circulation of motion for rehearing en Banc. (a) Reargument granted. If a motion for reargument is granted, a simultaneous motion for rehearing en Banc is implicitly denied.
- (b) Reargument denied. If the motion for reargument is denied and a simultaneous motion for rehearing *en Banc* has been filed, the latter motion is circulated.
- (c) Recommended disposition. A memorandum is then circulated to the other qualified members of the Court by the author of the opinion or order, stating that the panel has denied the motion for reargument, and attaching a copy of the motion for rehearing *en Banc* with the panel's recommended disposition of the motion for rehearing *en Banc*.
- (d) Vote required. The affirmative vote of two qualified and available Justices is needed for a rehearing *en Banc. See* Supr. Ct. R. 4(f).
- (e) En Banc motion only. If only a motion for rehearing *en Banc* is filed, the lead is taken by the Justice who was the named author of the opinion or order, who circulates the motion and a memorandum, with a suggested disposition, to the other qualified Justices, in the same manner that a motion for reargument is processed. The other Justices respond to the suggested disposition in writing.
- (2) Qualified Justices only. Only those Justices who are qualified and available to hear a case will vote on the motion for rehearing en Banc. Except in capital cases, if only three Justices are qualified and available, other State Judges or former Justices are not called to complete the Court en Banc in disposition of the motion. Therefore, if only three Justices are available and qualified, the original panel is, in effect, the Court en Banc for purposes of the motion. If only one Justice is disqualified, only the four qualified and available Justices will constitute the Court en Banc and consider the Motion for Rehearing.
- (3) *Rehearing denied*. If the motion for rehearing is denied, a written disposition is prepared by the Justice who was the named author and circulated for approval. If there is a dissent from the denial of rehearing, a notation will be added to the dispositive order, at the affirmative request of the dissenting Justice, that "Justice _____ would grant rehearing by the Court *en Banc*."
- (4) *Rehearing granted*. If a majority of the active justices of the Court vote for rehearing *en Banc*, the named author or ranking active Justice of the majority enters an order which grants rehearing, vacates the panel's opinion and the judgment entered thereon, and assigns the case to the calendar for rehearing *en Banc* on a priority basis.
 - (5) Supplemental authorities. Rehearing en Banc is on all issues presented in the original

briefs. The Chief Justice, upon the request by a majority of the *en Banc* Court, directs the Clerk to advise counsel to submit supplemental briefs on specific issues or to be prepared to discuss at oral argument any other relevant issues designated by the majority of Justices.

XV. Motion practice.

- (1) *Motion panels*. A panel of three Justices is available to receive motions at all times. The motion panel is comprised of the current motion Justice and the motion Justices from the preceding and succeeding months. If a member of the motion panel is disqualified, the next qualified Justice in rotation is added to the panel. The motions panels act in cases which have not already been assigned to a panel for disposition on the merits.
- (2) *Motion Justice*. (a) Monthly rotation. For each month of the year, the Chief Justice designates a "motion Justice." The motion Justice assignment is usually systematically rotated among all five Justices in order of seniority. All applications by motion, however, must be made to the Court.
- (b) Circulation by Clerk. The Clerk will refer the matter to the current motion Justice unless the motion Justice has entered a disqualification or the Clerk receives other instructions from the Court, e.g., motions relating to matters with which one Justice has already been substantially involved are referred to that Justice.
- (3) Routine motions. During a given month, all newly filed routine motions are handled by, or under the supervision of, the motion Justice unless the motion Justice is disqualified in a particular case, or the case is being handled by another Justice.
- (4) Extraordinary writs. The motion Justice also processes (to the extent judicial attention is required) those proceedings which may be filed in the first instance in the Supreme Court. The motion Justice also determines whether briefing or a hearing is required. Supr. Ct. R. 43. Usually the State is directed to file a response to these motions. The Clerk's office is directed to ascertain whether the judicial officer wishes to be heard or represented.
- (5) *Procedure*. (a) Written requirement. All motions must be in writing with the required notice to the opposing party. Informal contact with the court as to motions is confined to contacts with the Clerk's office or Chief Staff Attorney.
- (b) Response to motion. (i) General rule. As a general rule, parties have ten days to respond to a motion. The motion Justice can wait for a response before acting or direct a response via the Clerk's office.
- (ii) No response permitted. Some motions do not permit a response. However, the motion Justice can direct that a response be filed.
- (iii) Action without response. Some motions, such as extensions of time and pages, permit, but do not require, action without waiting for a response.
- (c) No conference. Motions are routinely handled by the motion Justice without a conference or hearing.
- (d) Special problems. When emergencies or very special problems arise, however, it is not inappropriate for an attorney to seek to set up a conference so that the attorney and opposing counsel may meet with the motion Justice. The request for such a conference should be made through the Clerk's office. If there are emergency motions to be presented to the motion Justice, and the motion Justice is not present in the county where the motion is filed, arrangements are made by the Clerk or the Chief Staff Attorney to transmit the motion to the motion Justice by facsimile.
 - (6) *Clerk of the Court.* The Clerk is authorized to approve:

SUPREME COURT INTERNAL OPERATING PROCEDURES

- (a) Time. Timely, motions for extension of time (not to exceed three extensions or a total of 75 days) for filing of a brief;
 - (b) Dismissals. Voluntary dismissals of an appeal prior to the filing of the appellee's brief.
- (c) Exception to prior approval. (i) Letters. (1) Letters which forward documents filed by a litigant who is represented by an attorney to the attorney for appropriate disposition;
- (2) Letters which inform the parties that a certain motion or a response to a motion is moot by reason of the Court's prior action;
 - (3) Letters which forward Rule 26(d)(iii) affidavit forms upon requests from defendants;
 - (4) Letters which return documents in closed cases or when there is no appeal;
- (5) Letters which request written statements regarding an attorney's continuing obligation to represent a defendant;
 - (6) Letters which decline requests for legal advice;
 - (7) Letters which resolve problems concerning transcripts;
 - (8) Letters which respond to complaints about the prisons;
 - (9) Letters seeking forms to proceed in forma pauperis; and
 - (10) Other letters of a routine nature.
 - (ii) Notices to show cause. (1) Appeal filed after 30-day appeal period;
 - (2) Interlocutory appeal;
 - (3) Failure to pay filing fee;
 - (4) Failure to serve the court reporter as directed by the Clerk's prior letter;
 - (5) Failure to provide sentencing date in a criminal direct appeal;
 - (6) Failure to pay for the transcript.
 - (7) Single Justice motions. (a) Automatic stay of execution in capital cases.
 - (b) Certificate of reasonable doubt denying or granting.
 - (c) Changing caption of appeal, i.e., pseudonyms, etc.
 - (d) Consolidating appeals denying or granting.
- (e) Denying motions to affirm. Denial of such a motion simply puts the case back into the routine briefing schedule. The appellee's brief is then due within 20 days of the denial.
 - (f) Expedite appeal upon consultation of others for availability.
 - (g) Motion to proceed in forma pauperis.
- (h) Motion to proceed *pro se*. These motions are remanded for initial consideration by the trial court pursuant to *Watson v. State*, Del. Supr., 564 A.2d 1107 (1989).
 - (i) Motion for stay or supersedeas in civil case grant or deny.
 - (3) Page extensions. These motions are not usually granted beyond 50 pages in all.
 - (k) *Pro hac vice* admissions.
 - (1) Seal records.
 - (m) Substitution of parties.
- (n) Time limits (15(b)). More than three extensions or extensions in excess of 75 days in total are rarely granted.
 - (o) Unopposed motion to dismiss.
 - (p) Unopposed rule to show cause.
 - (g) Motion to withdraw other than with a Rule 26(c) brief.
- (8) *Three-Justice motions*. A single Justice may act on any motion that is not case dispositive. However, the Court has decided that certain non-dispositive motions will also only be acted upon by a panel. Whenever a matter requires the affirmative vote of three Justices, the motion Justice circulates a proposed disposition in writing. The motion Justice calls the Clerk's

office to circulate the relevant papers to the other panel members. Three-Justice matters include the following:

- (a) Amicus curiae status granting or denying.
- (b) Certified questions accepting or refusing
- (c) Extraordinary writs granting or denying.
- (d) Granting motions to affirm. Motions to affirm under Supreme Court Rule 25 are made after the opening brief is filed. Since such motions may result in a final ruling on the merits before full briefing is completed, they are screened by the motion Justice. Acting alone, the motion Justice may deny the motion. However, a Rule 25 motion to affirm the trial court may be granted only if three Justices vote to grant it. See Supr. Ct. R. 3(a).
- (e) Interlocutory appeals. If the trial court has not acted upon the request for an interlocutory appeal, the Clerk is directed to notify the parties that no action will be taken until the trial court acts and a supplemental notice of appeal is filed. Whether such a motion is granted or denied, it is acted upon by three Justices. Either order is mailed to counsel and the trial court.
 - (f) Motions to dismiss (29(c)), if granted.
 - (g) Motion to intervene granting or denying.
 - (h) Reargument granting or denying (same panel).
 - (i) Stay of execution, other than automatic, only en Banc.
- (j) Motion to withdraw. When filed with a Rule 26(c) brief, such a motion is held in abeyance and is dismissed as moot if the State's motion to affirm is granted
- (9) *Summary action*. (a) Sua sponte initiation. The Court, *sua sponte* or upon motion by a party, may take summary action affirming, enforcing, or reversing the judgment or order appealed from if it clearly appears that no substantial question is presented or that subsequent precedent or a change in circumstances warrants such action.
- (b) Parties' positions. Before taking summary action, the Court will afford the parties an opportunity to submit argument in support of or in opposition to such disposition if briefs on the merits have not already been filed.
- (c) Panel unanimity. Summary action may be taken only by unanimous vote of the panel unless that action is unopposed. If a motion panel determines that summary action is not appropriate at that time, it may, in lieu of denial, refer the matter to the merits panel without decision and without prejudice.
- (10) Motions related to cases assigned to merits panels. Motions related to cases assigned to merits panels are generally granted or denied by the presiding Justice if they are merely administrative and unrelated to the disposition, unless the presiding Justice believes reference to the entire panel is appropriate.
- (11) *Post-decision motions*. (a) A motion for extension of time for filing a petition for rehearing or for leave to file out of time is referred to the named author of the opinion or order, who has authority to grant an extension of time. If the author votes to deny, the motion is referred to the entire panel for disposition.
- (b) A motion for stay of mandate or for the recall of the mandate, or certified judgment in lieu thereof, is processed by the presiding Justice.
- (c) A motion to amend the judgment of the Court is referred to the panel. (Amended Apr. 6, 1999; Oct. 22, 1999, effective Oct.15, 1999.)

XVI. Recusal or disqualification of Justices.

(1) Procedure. (a) Generally. Each Justice may submit to the Clerk in writing those

circumstances which would generally require a recusal, including names of businesses in which the Justice or family members have a financial interest, names of lawyer relatives whose names may appear as counsel in the appeals, and names of law firms on whose cases the Justice does not sit.

- (b) Before submission. When cases are filed, the Clerk transmits copies of the docket sheets and disclosure statements to each Justice who responds by promptly informing the Clerk of those cases in which the Justice is disqualified.
- (c) After submission. A Justice who finds it necessary to recuse after distribution of briefs or a motion immediately notifies other members of the panel and the Chief Justice or the active Justice next in seniority if the Chief Justice is recused. The Chief Justice, or the Justice next in seniority if the Chief Justice is disqualified or unavailable, names a substitute to reconstitute the panel. A written order is not necessary for the reconstitution of any panel prior to submission for disposition.
 - (d) Disclosure. The reasons for disqualification are not disclosed to the parties.
- (2) Rule of necessity. The rule of necessity is an exception to the principle that every litigant is entitled to be heard by a judge who is not subject to any disqualifications which might reasonably cause the judge's impartiality to be questioned. See Canon 3(C), Code of Judicial Conduct, Vol.16, Del. Code. The rule of necessity has been invoked where disqualifications exist as to all members of the state judiciary who would normally hear a matter. Rather than deny a party access to court, judicial disqualification yields to the demands of necessity. Lammot v. Walz, Del. Super., 107 A.2d 905 (1954). The rule of necessity is well-established and has been traced back to 1430 A.D. Atkins V. United States, 556 F.2d 1028, 1036 (Ct. Cl. 1977), cert. denied, 434 U.S. 1009 (1978).

XVII. Visiting jurists.

- (1) Primary selection. When it is necessary to designate a retired Justice, a Chancellor or a Judge of the Superior Court in order to provide a quorum on account of the disqualification or unavailability of a Justice in en Banc hearings or in panels normally consisting of three Justices, the senior available retired Justice, Chancellor or Superior Court President Judge is called upon to sit. See Del. Const. art. IV, §§ 12 and 38; Supr. Ct. R. 2(a) and 4(a). The Chief Justice or senior available Justice selects and ascertains a jurist's availability to sit.
- (2) Secondary selection. If the senior retired Justice, the Chancellor and President Judge are unavailable, other judges may be designated by them to sit on the Supreme Court.
- (3) Assignment. A visiting jurist is not assigned to sit on an appeal from the visiting jurist's or her own Court. Jurists are designated to sit by order of the Chief Justice or senior available Justice.

XVIII. Law clerks.

The Court has unanimously agreed that the following rules apply to law clerks:

(1) Discussion of pending cases. Unless the Justices specifically agree otherwise in a given case, it is the Court's longstanding policy for the Justices not to discuss, debate or confer regarding the merits or substantive issues of pending cases until they are considered at a conference. The same policy applies to law clerks. Thus, law clerks are instructed that unless the Court specifically requests a law clerk to do so, any such communications or exchanges of memoranda or views between clerks assigned to different Justices are inappropriate until the Court has conferred and issued its memorandum of decision or has agreed upon a disposition.

This does not preclude such common courtesies as providing photocopies of cases or portions of the record which one clerk has readily available and can easily provide to others.

- (2) Job offers. The law clerks are permitted to accept job offers during their clerkships, but will not be able to accept the payment of any bonuses or moving expenses until their clerkships end. However, during the tenure of their clerkship, they are permitted to have their expenses of travelling to and from an interview reimbursed. They are also able to be reimbursed for the expenses of taking the bar examination and the bar review course.
- (3) Disqualification. There is no disqualification *per se* for a law clerk to work on a case involving the firm from which the law clerk has accepted a job offer. Those assignments will be left to the discretion of the individual Justice. A law clerk is not permitted to work on a case on which the law clerk worked or of which the law clerk had knowledge prior to the clerkship.
- (4) Outside employment. No law clerk may take a job during the clerkship other than the clerkship without the prior authorization of the law clerk's primary Justice.
- (5) Political activity. No law clerk may be politically active during the tenure of the clerkship.
- (6) Confidentiality. Each clerk must maintain complete confidentiality about everything related to cases in this Court.
- (a) Internal discussions. There should be no discussion on anything relating to a case except among persons within the Supreme Court chambers who have a need to know and who are directly involved in preparing for any activity which may take place before the Court. There should **never**, **ever** be any discussion with anyone not in the need-to-know group within chambers.
 - (b) Computers. Access to any computer must be secured and restricted at all times.
- (c) Written material. (i) Security in public. Any paper with handwriting or any paper typed within chambers should be torn up or shredded when it is discarded.
- (ii) Disposal. Any paper taken into a public place such as a library, airplane, or train, must be secured and cared for in a way which maintains confidentiality.
- (d) Public discussion. Conversations outside of chambers must maintain confidentiality. This includes even the most seemingly innocuous discussions about timing or preparations for hearings.
- (7) Trading in securities. There should be no trading in securities in any matter involving entities which are before this Court.

XIX. Death penalty cases.

- (1) *Docketing*. An automatic appeal is docketed by the Clerk's office after a death sentence is imposed. If the defendant files a separate notice of appeal, the cases are consolidated.
- (2) Stay of execution. (a) Automatic. In all automatic appeals, the motion Justice enters a stay of execution sua sponte, which remains in effect during the pendency of this Court's consideration.
 - (b) Other requests. Any other request to stay a death sentence is considered en Banc.
- (3) Administrative Directive No.88. The following standards govern proceedings in the Supreme Court unless otherwise directed by the Court.
- (a) Compliance with briefing schedules in the Supreme Court will be strictly enforced and only in extraordinary circumstances will this Court grant extensions totalling more than sixty (60) days.
 - (b) Oral arguments shall be scheduled within forty-five (45) days after the prosecution's

answering brief and appendix have been served and filed.

- (c) This Court will issue its decision within ninety (90) days after the case has been submitted for decision. The Court will determine motions for reargument within thirty (30) days after their filing.
- (4) Hearings en Banc. All substantive matters relating to a capital case are considered en Banc.
- (5) *Notices to other courts*. The Clerk's office receives from and distributes filings to the Superior Court, District Court, Third Circuit Court of Appeals, and the United States Supreme Court when an execution is imminent.

XX. Filing of papers.

- (1) *Location*. The Clerk's office is in Dover. Supr. Ct. R. 10(a) and 91(a). Dover is the depository for this Court's original records and the trial court records which are forwarded during an appeal. Filings may also be made at the Supreme Court offices in Wilmington or Georgetown. Supr. Ct. R. 10(a) and 91(a)(ii).
- (2) *Hours.* By order of the Court, papers are accepted for filing on business days during regular business hours (8:30 a.m. to 4:30 p.m.) at the Court's three locations, Wilmington, Dover and Georgetown. If it is impossible to file a paper during the regular hours, the Clerk takes the matter up with the motion Justice.
- (3) *Stamp and number*. A date stamp is immediately applied to all papers accepted for filing. When papers are filed and "stamped in," the Deputy Clerk is authorized to apply the same date stamp to an extra copy of the paper for the filing party's records. In such instances, the word "copy" is stamped over the date stamp. All appeals to the Supreme Court are assigned a number by the Clerk's office in Dover.
- (4) Action upon filing. (a) Acceptance. The acceptance of a paper for filing does not represent a decision that the paper is in proper form or that it is a paper which will be docketed by the Clerk.
- (b) Rejection. (i) Motions and briefs. The clerical personnel in each county (acting as Deputy Clerks under Supreme Court Rule 91(a)(ix)) are instructed to refuse to accept papers for filing as to which there has been no service and papers which are in obvious violation of the rules. For example, they are instructed to refuse to accept briefs which violate Supreme Court Rule 14(d) as to page limits. They may also reject motions which are in violation of Supreme Court Rule 30(a) and (b) as to page limits.
- (ii) Notices of appeal. Notices of appeal which appear to be untimely are accepted for filing and referred to the Clerk. The Clerk issues a Notice to Show Cause why the appeal should not be dismissed under Supreme Court Rule 29(b). Notices of appeal not accompanied by a payment of costs, as required by Supreme Court Rule 20, are accepted and followed by a Notice to Show Cause.
- (iii) Filing by mail. Non-conforming mailed filings are generally docketed upon receipt and then dealt with by either striking or returning them.
- (iv) Mistaken acceptance. Papers accepted which do not comply with the Court rules may subsequently be stricken *sua sponte* by the motion Justice (upon recommendation from the Clerk) or after Notice to Show Cause.

INDEX TO INTERNAL OPERATING PROCEDURES OF THE DELAWARE SUPREME COURT

A

ACCEPTANCE OF PAPERS FOR FILING, IOP R. XX(4).

ADMINISTRATIVE MEETINGS, IOP R. I(2).

ADMINISTRATIVE OFFICE OF THE COURTS, IOP R. I(7).

ADMINISTRATOR, IOP R. I(4).

ANSWER OR REPLY.

Reargument by panel, IOP R. XIII(2), (3).

ASSIGNMENT FOLLOWING REMAND, IOP R. XII(2).

ASSIGNMENT OF CASES, IOP R. II(1).

В

BRIEFS.

Decisional conference procedure. Submission of brief, IOP R. IX(2).

Distribution, IOP R. IV(1).

No discussion prior to scheduled sitting, IOP R. IV(2).

Rejection of papers for filing. IOP R. XX(4).

 \mathbf{C}

CASELOAD MANAGEMENT, IOP R. II.

CHIEF JUSTICE.

Administrative head of courts, IOP R. I(1).

CLERK.

Action requiring judicial approval, IOP R. I(5). **Dockets,** IOP R. II(3).

Location of office, IOP R. XX(1).

Motion practice.

Approval authorization, IOP R. XV(6).

Routing of documents, IOP R. I(5).

COMMUNICATIONS WITH AND BY THE COURT.

External communications between court and attorneys or public, IOP R. III(1).

Internal communications between justices, IOP R. III(2).

D

DEATH PENALTY.

Administrative directive No.88, IOP R. XIX(3). Docketing death penalty cases, IOP R. XIX(1). En banc hearing, IOP R. VII(4), XIX(4). Length of oral argument, IOP R. V(3). Notice to other courts, IOP R. XIX(5). Stay of execution, IOP R. XIX(2).

DECISIONAL CONFERENCE PROCEDURES, IOP R. IX.

DECISIONAL CONFERENCES, IOP R. II(4).

DECISIONS.

Briefs.

Submission of briefs, IOP R. IX(2).

Issuance.

Notice, IOP R. IX(6).

Mandates.

Issuance, IOP R. IX(7).

Memorandum of decision, IOP R. IX(4).

DISPOSITION OF ASSIGNED MATTERS, IOP R. II(2).

DISQUALIFICATION OF JUSTICES, IOP R. XVI.

DOCKETS.

Docket control, IOP R. II(3).

 \mathbf{E}

EN BANC HEARING, IOP R. VII. **Rehearing en banc,** IOP R. XIV.

EXTRAORDINARY WRITS. Motion practice, IOP R. XV(4).

F

FILING OF PAPERS, IOP R. XX.

Н

HOURS FOR FILING PAPERS, IOP R. XX(2).

J

JUDGMENTS AND DECREES. Judgment orders, IOP R. XI.

JUDICIAL ASSIGNMENTS, IOP R. II(1).

JURISDICTION.

Remand orders.

Retention of jurisdiction, IOP R. XII(1).

JUSTICES.

Absence from office.

Justice to advise chief justice, IOP R. III(3).

Disqualification, IOP R. XVI.

Liaison justice between supreme court and other courts and boards, IOP R. I(3).

Recusal, IOP R. XVI.

Retired justice, counselor or judge designated, IOP R. XVII.

Visiting jurists, IOP R. XVII.

L

LAW CLERKS, IOP R. XVIII.

M

MANDATE.

Issuance, IOP R. IX(7).

MOTION JUSTICE, IOP R. XV(2).

MOTION PRACTICE, IOP R. XV.

MOTIONS.

Clerk of court, IOP R. XV(6).

Extraordinary writs, IOP R. XV(4).

Filing.

Rejection of papers for filing, IOP R. XX(4).

Motion justice, IOP R. XV(2).

Panels, IOP R. XV(1).

Post-decision, IOP R. XV(11).

Procedure, IOP R. XV(5).

Related to cases assigned to merit panels, IOP R. XV(10).

Routine motions, IOP R. XV(3).

Single justice motion, IOP R. XV(7).

Summary action, IOP R. XV(9).

Three-justice motions, IOP R. XV(8).

o

OPINIONS, IOP R. VIII.

Approval procedure, IOP R. X(4).

Circulation for approval, IOP R. X(2).

Citation to orders, IOP R. X(8).

Concurring opinions, IOP R. X(5).

Filing, IOP R. X(6).

OPINIONS — Cont'd

Form, IOP R. X(1).

Ninety-day period for draft decision-writing, IOP R. X(3).

Per curiam opinions, IOP R. X(1), (b).

Publication, IOP R. X(7).

ORAL ARGUMENT, IOP R. V.

Criteria, IOP R. V(4).

Length.

Cases en banc, IOP R. V(3).

Panel cases, IOP R. V(2).

Notice of scheduled arguments, IOP R. V(7).

Notice to counsel, IOP R. V(5).

Reargument by panel, IOP R. XIII(4).

Record of argument, IOP R. V(8).

Scheduling, IOP R. V(6).

Selection of cases, IOP R. V(1).

ORDERS OF COURT.

Citation to orders, IOP R. X(8).

Filing, IOP R. X(6).

Judgment orders, IOP R. XI.

Publication, IOP R. X(7).

Remand orders. IOP R. XII.

P

PANEL HEARINGS, IOP R. VI.

Assignment for disposition, IOP R. VI(1).

Case at issue, IOP R. VI(1).

Composition, IOP R. VI(2).

Conflicts between en banc or panel, IOP R. VI(6).

Disclosure of names on panel, IOP R. VI(3).

Length of oral argument, IOP R. V(2).

Presiding judge, IOP R. VI(4).

Reargament by panel, IOP R. XIII.

Seating in court, IOP R VI(5).

PUBLICATION.

Opinions and orders, IOP R. X(7).

R

REARGUMENT, IOP R. XIII.

RECUSAL OR DISQUALIFICATION OF

JUSTICES, IOP R. XVI.

Procedure, IOP R. XVI(1).

Rule of necessity, IOP R. XVI(2).

REHEARING EN BANC, IOP R. XIV.

Circulation of motion for rehearing, IOP R. XIV(1).

Denial, IOP R. XIV(3).

Granting, IOP R. XIV(4).

Qualified justices only, IOP R. XIV(2).

SUPREME COURT INTERNAL OPERATING PROCEDURES

REHEARING EN BANC — Cont'd **Reargument by panel distinguished from,** IOP R. XIII(1).

Supplemental authorities, IOP R. XIV(5).

REJECTION OF PAPERS FOR FILING, IOP R. XX(4).

REMAND ORDERS, IOP R. XII.

RETIRED JUSTICE, CRANCELLOR OR JUDGE OF SUPERIOR COURT DESIGNATED, IOP R. XVII.

REVERSAL AND REMAND, IOP P. XII(3).

RULE OF NECESSITY. Recusal or disqualification of justices, IOP P. XVI(2).

 \mathbf{S}

SINGLE JUSTICE MOTIONS, IOP R. XV(7).

SPOKESPERSON FOR SUPREME COURT. Administrator, IOP R. I(4).

STAFF ATTORNEY, IOP R. I(6).

SUA SPONTE INITIATION, IOP P. XV(9).

SUMMARY ACTIONS ON MOTIONS, IOP R. XV(9).

SUPERVISORY POWERS, IOP R. I(1)

T

TEMPORARY DESIGNATION OF RETIRED JUSTICE, CHANCELLOR OR JUDGE OF SUPERIOR COURT, IOP R. XVII.

THREE-JUSTICE MOTIONS, IOP R. XV(8).

V

VISITING JURISTS, IOP R. XVII.